

AGENDA

SPECIAL MEETING OF THE MIDLAND CITY HOUSING COMMISSION

MONDAY, APRIL 4, 2016

3:00 P.M.

CITY HALL - COUNCIL CHAMBERS

333 W. ELLSWORTH STREET

MIDLAND, MI 48640

1. Roll Call
2. Public Comments (unrelated to items on the agenda)
3. New Business
4. Old Business
 - a. Bracken Woods PILOT Proposal – City Council Questions
5. Communications
6. Future Meeting Date
 - a. June 6, 2016 – Next regular meeting (Potentially Located at Washington Woods)
7. Adjournment



STAFF REPORT TO THE HOUSING COMMISSION FOR THE SPECIAL MEETING OF APRIL 4, 2016

SUBJECT: PILOT Proposal – Bracken Woods

DATE: March 30, 2016

Background

In February, the City Council formulated a list of 18 questions on the Bracken Woods PILOT proposal for the Housing Commission to answer and review. During the special meeting on March 2, 2016, the Housing Commission was able to review answers to 16 of these questions, as provided by city staff. Two questions were unanswered at that time as staff was waiting for a response from the Michigan State Housing Development Authority (MSHDA). Since this meeting, staff has been able to receive the answers from MSHDA on the outstanding two questions which are provided in this report.

The following contains the entire list of 18 questions and their answers. Additional information since the March 2 meeting has been noted with an orange arrow (→). Per the request of the Housing Commission, staff has also provided additional information on the role of Midland's City Housing Commission compared to other housing commissions that operate in the state. This discussion follows the list of questions.

EXHIBIT 1 – City Council Questions for the Housing Commission

To answer during the public hearing process for the PILOT request at Bracken Woods Apartments

1. How many inspected apartment/rental units are there in the city of Midland (and the county of Midland if that is available)? And what has that number been for each of the past 5 years?

There are currently 6,400 certified rental units within the city of Midland. While the exact number of certified rentals per year is not known, it is known that this number has remained generally constant over the last five years.

2. What are the current rental rates for 1 and 2 bedroom units both in the city and in the county?

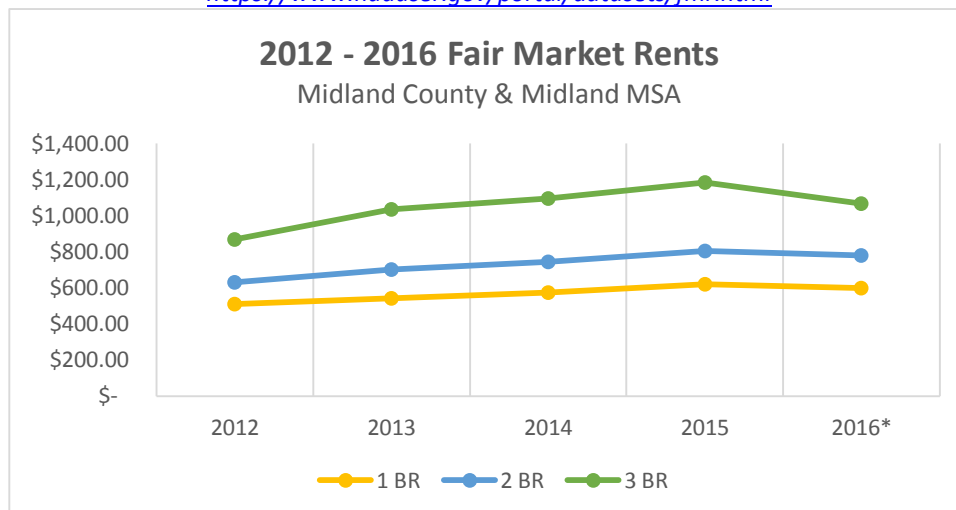
True rental rates for 1 and 2 bedroom units are not known for the city and the county as this information is not required to be reported, nor actively collected. The U.S. Department of Housing and Urban Development compiles Fair Market Rent (FMR) values for counties and Metropolitan Statistical Areas (MSA) on a yearly basis that can be used to gain an idea of the rental rates within a specific area. These numbers are generated using American Community Survey estimates provided by the U.S. Census Bureau as a base. HUD then makes a series of adjustments following a set calculation methodology, (the full calculation methodology is included in the attached FY 2016 Fair Market Rent calculation for Midland MSA). It must be noted that these FMR numbers are not intended to be an exact representation of prevailing rents within a market area; rather, the numbers are intended to be used as a yearly estimate for various HUD and state housing programs.

Starting in year 2016, FMRs for the city of Midland are no longer part of Midland County but are part of the newly created Midland MSA. The ACS 2013, of which the 2016 FMRs are based upon, was the first year that established the Midland MSA.

2012-2016 HUD Fair Market Rents					
	2012	2013	2014	2015	2016
1 Bedroom	\$510	\$541	\$573	\$619	\$598
2 Bedroom	\$629	\$702	\$744	\$803	\$778
3 Bedroom	\$867	\$1,034	\$1,096	\$1,183	\$1,068
	Midland County				Midland MSA

Source: HUD Fair Market Rent Documentation System 2012-2016

<https://www.huduser.gov/portal/datasets/fmr.html>



3. How do Midland's rental rates compare to 5 other similarly sized cities?

Midland's current Fair Market Rent (FMRs) rates fell near the top of the six market areas that were selected for comparison based upon geographical proximity and comparable population size of the targeted city that falls within the Metropolitan Statistical Area or county. The five comparable MSAs and the one comparable county included: Bay City MSA, Saginaw-Saginaw Township North MSA, Isabella County (Mt. Pleasant), Battle Creek MSA, Lansing-East Lansing MSA, and Jackson MSA.

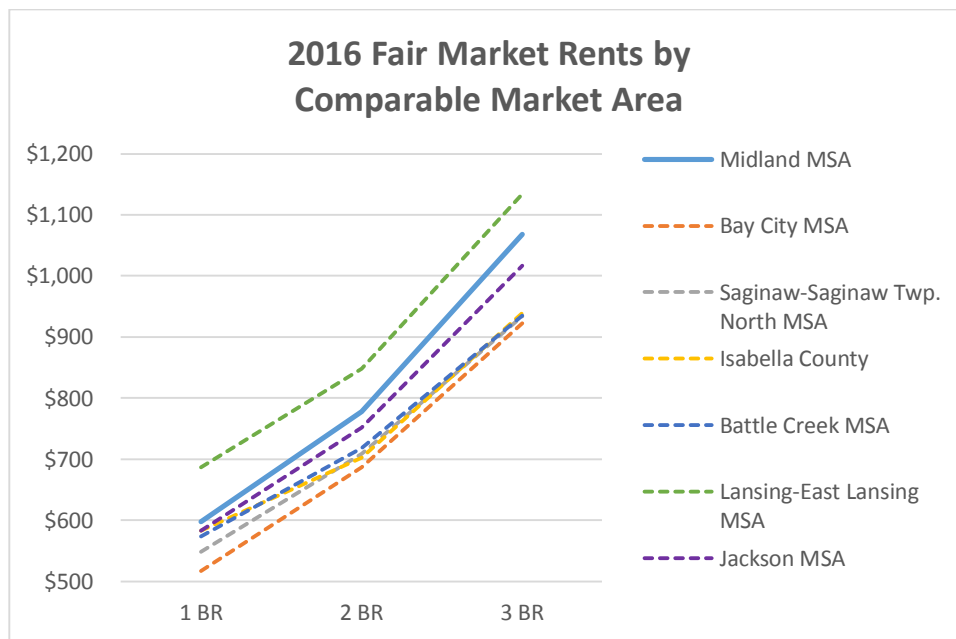
2016 Fair Market Rents by Comparable Market Area

	Midland MSA	Bay City MSA	Saginaw- Saginaw Twp. North MSA	Isabella County	Battle Creek MSA	Lansing-East Lansing MSA	Jackson MSA
1 BR	\$598	\$517	\$549	\$583	\$574	\$687	\$583
2 BR	\$778	\$687	\$709	\$702	\$718	\$848	\$752
3 BR	\$1,068	\$922	\$934	\$939	\$935	\$1,134	\$1,017

Source: HUD Fair Market Rent Documentation System 2012-2016

<https://www.huduser.gov/portal/datasets/fmr.html>

The only comparable market area that has higher FMRs in every bedroom category is the Lansing-East Lansing MSA. The comparable market area most similar to Midland in each bedroom category is the Jackson MSA: 1 BR ±\$15; 2 BR ±\$26; 3 BR ±\$51.



4. What is the PILOT rate in those 5 other similar sized cities?

The PILOT rates in seven comparable jurisdictions were researched to determine how the city of Midland compares to jurisdictions of similar population size and/or geographic proximity. The table below highlights the number of PILOT exemptions and the applicable service fee rates established by ordinance for housing developments in the seven comparable jurisdictions.

Notably, Midland appears to have a high number of PILOT exemptions compared to the other jurisdictions. This disproportion can be explained by the number of single-family residences that are established by ordinance in Midland: eight of the 19 PILOTs in the City of Midland are single-family homes. Comparatively, most other jurisdictions do not have such a high number (or any) PILOTs granted to individual single-family homes but rather have PILOTs established for only larger scale developments.

➔ *Additional Information*

PILOT Rates by Comparable Jurisdictions

Jurisdiction	Number of PILOT Properties	➔ Number of Total Units*	PILOT Rate Range
City of Midland	19	521	All at 4%
City of Bay City	5	562	All at 4%
Saginaw Township	2	374	All at 4%
City of Saginaw	15	980+	4-10%
City of Mt. Pleasant	10	736	4-10%
City of Battle Creek	11	759+	2.25 – 10%
City of East Lansing	6	310+	4-10%
City of Jackson	4	213	All at 4%

**The total units provided in this column represent the number city staff was able to determine through public records and conversations with available staff in the applicable jurisdiction. In the case of the City of Saginaw, City of Battle Creek and City of East Lansing, the number of units within every PILOT property is not readily known so the number known has been indicated with a plus sign to indicate that there are some additional units above this number in the municipality.*

5. If this were a newly constructed complex, what PILOT rate would the Housing Commission recommend?

It is important to note that the Housing Commission has not dealt with PILOTs prior to August of 2015 – Bracken Woods request from Lockwood Development. Prior PILOT requests were not required to come before the Housing Commission. It would be staff's expectation that the Commission would rely upon a recommendation of staff that was arrived at in conjunction with the 2010 recommended guidelines received and filed by City Council. Ideally the same criteria should be considered in both scenarios.

6. Under the PILOT program can we grant a stair stepped rate so that the 4% rate applies to the remainder of the years under the existing Bracken Woods program and then new rates apply to any extension being requested?

MSHDA does allow for PILOTs with stair-stepped rates; however, for underwriting approval purposes MSHDA assumes all years to be at the highest rate. They do not see many PILOTs with similar rate structures. Typically an accelerating PILOT does not allow the development to achieve feasibility.

7. Other cities with a PILOT building seem to impose a service charge on top of the PILOT rate; has the Housing Commission considered that type of charge for a PILOT?

➔ *Additional Information*

See previous explanation about the Housing Commissions past experience with PILOTs. From MSHDA's viewpoint, it is allowable to charge an additional fee, on top of the PILOT fee, but they will combine them together as if the PILOT fee were higher for the purposes of their underwriting process. Due to declining interest rates on the MSHDA mortgages, we are

investigating the possibility of adding such a fee, with MSHDA's knowledge and support, to the extent that the project can accommodate it.

8. Is it correct that individuals that qualify for PILOT housing can remain in their apartments even though their income levels increase beyond the 50% of median level? If so, then it is theoretically possible that Bracken Woods would no longer be providing low income housing and not warrant the extension of PILOT tax relief?

➔ *Additional Information*

That is correct. Because Bracken Woods is a Low Income Housing Tax Credits program, the Internal Revenue Code provides direction. As explained by John Hundt of MSHDA, residents must be income-qualified at the time of their initial move-in. Such initially-eligible households remain income-qualified even if their incomes subsequently increase to an amount that is in excess of the income limit. There is no time limit or dollar limit that will be applied to this situation. The rents on these households must remain restricted. However, upon further inquiry with MSHDA's legal department, there is no legal requirement that prohibits putting tenants in this situation on notice that because their income has increased beyond the qualifying levels for their unit, their lease will not be renewed at the end of its term. This would limit the length of time that someone could be occupying an apartment and making more than the qualifying level of income to one year.

9. Have PILOT programs in other cities removed this tax benefit if the complex fails to maintain a minimum percentage of qualified tenants?

➔ *Additional Information*

Communities can try to put this type of arrangement in an agreement, but MSHDA won't underwrite the project that way because of the uncertainty it imposes.

10. Is the condition something that we as a city/housing commission feel is a problem?

The main concern of staff is not necessarily the current condition of Bracken Woods but rather the direction of decline this facility has been headed in over the last few years. While the current condition is not great, there are rental units within the city that are in slightly worse condition and there are some that are in better condition. The City's rental inspection program is meant to review the current state of the property through a checklist of health and safety standards; it is not meant to assess the capital replacement needs of the facility. The responsibility for maintenance in compliance with capital replacement plans or other loan covenants with MSHDA is MSHDA's responsibility for monitoring.

11. What is it specifically that has led to the purported inferior (yet code compliant) condition of Bracken Woods?

In the opinion of John Hundt from MSHDA, the development is currently owned by an out of state developer who has become disinterested in the Michigan market and has attempted to sell his entire Michigan portfolio for the last several years. During this time the owner has not focused on actively managing these developments and has allowed the physical and financial

condition to deteriorate. Several of this developers properties in the state have been foreclosed on, those with MSHDA held mortgages were taken over and either listed and sold outright, or are in the process of stabilization and listing for sale. During the time the state owns the property, no taxes are paid.

12. What code changes should be implemented to correct those things that are considered a problem?

Code changes would not be advisable as codes relate to all rental units and cannot be tailored towards specific developments or properties. Code changes targeting specific properties would be a form of discrimination. Any additional requirements above the City's typical code could be included in a separate agreement with the apartment owner and MSHDA.

13. Can we have a higher maintenance standard for PILOT subsidized housing? Would that be imposed by ordinance?

Higher maintenance standards for PILOT housing can be achieved through the adoption of a PILOT policy, rather than through ordinance changes, that would specify higher maintenance standards. These standards would be achieved through the establishment of a contractual agreement with the apartment owner and MSHDA. However, before taking action on such an item, staff advises that additional study be done regarding enforcement and penalty for non-compliance.

14. What is the enforcement mechanism for failure to comply with maintenance standards?

MSHDA Compliance issues IRS form 8823 to notify the IRS of noncompliance with Low Income Housing Tax Credit (LIHTC) developments, which could result in the recapture of tax credits. Compliance also notifies the assigned Asset Manager, so additional enforcement action can be taken when needed. In addition to the potential loss of tax credits, noncompliance could also result in negative points in future LIHTC funding rounds, loss of premium management fees, or other enforcement penalties Asset Management deems necessary.

15. What is the MSHDA maintenance standard? And is it more stringent than Midland's code?

The MSHDA Physical Inspection Manual is available at this web site:

http://www.michigan.gov/mshda/0,4641,7-141-5555_8002_26576_26578-113476--,00.html

While the scope of MSHDA's manual appears to be greater in some areas compared to the City's rental code, there are significant areas of overlap between the two on the items that are reviewed during inspections.

16. As proposed by the PILOT request from Lockwood Development, of the 104 units at Bracken Woods Apartments, how many will be barrier free, and how many will be handicap accessible?

There are 6 barrier free apartments. In addition, 3 other units are considered accessible for the visually or hearing impaired.

17. Interview some references from communities where Lockwood Development currently has PILOTs.

As verbally indicated during the March 2 meeting, city staff was able to consult with other jurisdictions where Lockwood Development owns and operates other PILOT properties. The following is a summary of these consultations:

Cedarshores – Mt. Morris Charter Township – 5200 Cedarshores Court, Flint, 48504

The township building official indicated that the property is well-kept and the management is on top of ongoing improvements. There have been no issues during building inspections as part of recent building improvements. A police department lieutenant indicated that the complex is average in the number of responses compared to other complexes in the township. There were a lot of improvements that were made when Lockwood took over the facility, including security cameras. This is the only complex with security cameras in the township, according to the police lieutenant. He commended Lockwood on facilitating a training on the use of the cameras with the police department once they were installed.

Centre Street Village – City of Portage – 2011 E Centre Avenue, Portage, 49002

A police department lieutenant indicated that the complex is below average in the number of calls received compared to other complexes.

Lockwood of Fenton (Senior Housing) – City of Fenton – 16300 Silver Parkway, Fenton, 48430

The code enforcement official indicated that the complex is below average on property maintenance violations compared to other complexes in the city. The police department indicated that mostly medial responses are needed at this facility and that the response rate is average compared to other similar complexes.

18. In Lockwood's presentation they referenced that in some agreements there can be a condition that if the property is sold it would no longer have a PILOT status – is this beneficial and is that something that can be added to our agreement?

➔ Additional Information

Under the additional PILOT guidelines received by Council in 2011, any sale of ownership must be treated as a new PILOT. Further in discussion with MSHDA, a sale by an owner would cause the existing mortgage to be due on sale, therefore causing the need for a new PILOT agreement from their end as well.

Further Information as Requested by the Housing Commission

➔ Additional Information

Public Housing Agencies Compared to the Midland City Housing Commission

The City of Midland's Housing Commission does not operate as a Public Housing Agency (PHA) as other housing commissions do across the state. Some example of local PHAs include the Mt. Pleasant Housing Commission, the Bay City Housing Commission and the Saginaw Housing Commission. A PHA is a distinct public-entity that operates separate from the municipality. They are responsible for owning and managing public housing for low-income individuals, those with disabilities or the elderly. In many jurisdictions, such as the city of Mt. Pleasant and the city of Saginaw, the PHA has a payment in lieu of taxes agreement with the local municipality for all of the properties that it owns and operates. In the case of the city of Mt. Pleasant, the two developments owned by the Mt. Pleasant Housing Commission have a 10% PILOT fee established in perpetuity. While this PILOT rate is in place, the Mt. Pleasant Housing Commission is able to provide housing to qualified low-income residents by only charging 30% of their income for rent.

Most PHAs own and operate housing facilities for low income persons or for the elderly and the disabled. In the city of Saginaw, the Saginaw Housing Commission operates 631 units. 456 of these serve elderly persons or the disabled and are located within five mid-rises throughout the city of Saginaw. The remaining 175 units are offered to qualified low-income persons throughout scattered sites across the city of Saginaw.

The Midland City Housing Commission is different from a PHA as it largely acts as an advisory body to the Midland City Council. Two of the largest roles of the Midland City Housing Commission are to provide oversight of the two city-owned and operated senior housing communities, Washington Woods and Riverside Place, and the Community Development Block Grant program.

Historically, as the Midland City Housing Commission has not operated as a PHA and does not own and operate its own housing for low-income persons, the provision of low-income housing has come through private entities. These private provisions include PILOT developments using Low Income Housing Tax Credits, private landlords offering lower rents than fair market value, and through the Housing Choice Voucher program.

Housing Choice Vouchers

In addition to PHA's, there are other tools for providing low-income housing within a community. Examples of these tools include Housing Choice Vouchers (formerly known as 'Section 8') and PILOT developments by private entities. In Midland County, as of March 1, 2016 there were 294 tenant-based and 41 project-based Housing Choice Vouchers, for a total of 335 vouchers. The HCV program in Midland County is administered by a MSHDA designated organization: Community Management Associates, Inc. This entity also administers the HCV program for Isabella County.

It is difficult to obtain the number of vouchers within other counties, especially when dealing with a MSHDA designated administrative entity such as CMA. As such, staff was only able to determine the number of HCVs within Saginaw County for comparison purposes as the Saginaw Housing Commission readily provided this information. In Saginaw County, the Saginaw Housing

Commission administers the HCV program. Currently, there are 1,187 tenant-based vouchers within Saginaw County.

The following chart provides a summary on the HCV program within Midland County. While there are 335 vouchers within the county, there are still many households on the waitlist trying to obtain a voucher. As of March 1, 2016 there were 25 households on the Homeless-Preference Waitlist. In order to be placed on this waitlist, the household must be homeless (living in a shelter or place not meant for human habitation), low-income (50% AMI or below with greater preference given to 30% AMI), and be a Midland County resident. This waitlist requires that households be recertified every 90-120 days to verify that the eligibility qualifications are still met. Additionally, MSHDA audits this list every 90-120 days and requires that audit responses supporting waitlist household qualifications be submitted within two business days. This is done to ensure merit of the waitlist. It is random and not often when MSHDA pulls names off this waitlist and allows the households to apply for a HCV that has become available. During the last year, 32 new households received vouchers within Midland County after 88 households applied.

The general waitlist, which has been closed since July 2011, has 122 households as of March 1, 2016. Recertification of this waitlist has ceased since the waitlist was closed so the accuracy of this number is not nearly as high as the Homeless-Preference Waitlist.

March 1, 2016	Tenant-Based HCV	Project Based HCV	Households on Homeless-Preference Waitlist	Households on General Waitlist (Closed Since '11)
Midland County	294	41	25	122

Public Comment Letters Received
Relating to the Agenda Item

Wednesday March 30th, 2016

Midland Housing Commission
333 Ellsworth Street
Midland, MI 48640

**RE: PILOT PROPOSAL for BRACKEN WOODS APARTMENTS
5301 DUBLIN ROAD, MIDLAND, MI 48640**

Dear Housing Commission Members,

You have been chartered to study and make recommendations on this PILOT and we thank you for your efforts in serving the best interests of Midland's taxpayers and most importantly, the 30 percent AMI or working poor in our community. I speak to you not only as president of MAREIA, but as a citizen and taxpayer of Midland.

As you know, last July 2015, Lockwood Development applied for PILOT regarding the existing 35 year PILOT for Bracken Woods Apartments currently owned by Boston Capital which is based in Boston, MA. Lockwood Development, broker and prospective buyer, Cinnaire Corporation, designated **two out of 104 units** to the 30 percent AMI with extension of 37 years and 6.5 percent annual fee to the city of Midland. Thankfully, this proposal was defeated by a 3/2 vote in August, 2015.

Midland taxpayers have been subsidizing the Bracken Woods **failed** PILOT for the past 20 years. Further, this PILOT was granted in 1979 contingent upon Boston Capital providing low to moderate income housing. For the past 20 years with rents at 60 percent AMI, this PILOT currently provides **zero** units for either the 30-50 percent AMI!

Note: an individual recently called Bracken Woods seeking low income housing and was informed that '**Bracken Woods is not a low income property and has no vacancies**'. According to our understanding, there is a 10-16% vacancy rate at Bracken Woods but evidently these are not being allocated to anyone in the 30-50% AMI range until and unless a new PILOT is granted.

On January 25, 2016, Lockwood Development and Cinnaire Corporation returned with a new proposal designating 10 out of 104 units and the remaining 94 units previously grandfathered in at 60 percent AMI would be gradually transitioned to the 50 percent AMI level. If approved, Midland taxpayers will be committed to funding a new \$5+ Million Dollar PILOT via increased property taxes, fire, public safety and school services for the next 25 years. Annual fee to Midland now reduced to 4%. There is NO guarantee that Cinnaire Corporation and Lockwood Development will not follow Boston Capital's role and bail out once revenues are harvested after 15-20 years. Or even that once PILOT expires, the apartments will be converted to market rate rents, thereby displacing low and moderate income families.

On March 19th we attended an excellent three hour discussion on homelessness at my church, Memorial Presbyterian. Throughout the entire session the demand was emphasized for low income or 30 percent AMI rental housing in Midland.

While the proposal is slightly improved, the reality is that 10 out of 104 units being allocated to the 30 percent AMI will make no significant difference or impact in serving that need. We are asking that at least 35 percent more units be made available to the working poor. Some would argue that 50 percent would be a more fair and equitable exchange for 25 years of PILOT status. Yet others would suggest that PILOT should be incentivized in that only those units being allocated to the working poor should be granted PILOT.

We have other questions as follows below:

TRANSPARENCY The economic model between Cinnaire Corporation and Boston Capital, or between buyer and seller, has never been made available to the public, only to the city. If this is the model that is supposedly successful, then why do we have a model that does not work?

PERPETUATING PILOT: Your recommendation on this PILOT is critical because it will set a precedent and model not only for the 19 existing PILOTs in Midland, but for future PILOTs. Since Boston Capital has announced they will be divesting their holdings in MI, this means that Joseph's Run – another of their 'holdings' - will most likely be another PILOT set before the city in the near future. Parameters and consequences need to be put in place for failed PILOTs to deter out of state investors from exploiting Midland's taxpayers and specifically our working poor. You have the authority and responsibility to recommend bold, effective changes.

OVERSIGHT & ACCOUNTABILITY: Who will be responsible for oversight and accountability if this deal goes through? Will it be the city of Midland or MHSDA?

Based on all of the above, we challenge you to take strong, courageous action by recommending to City Council that the present criteria or ordinance be changed from 2 units designated to the 30 percent AMI to require that at least 35 percent to even 50 percent units be allocated to the working poor. Further, recommendation be made that those currently at the 60 percent AMI level need to be gradually phased into market rate rental housing so as to make those units available for the 50 percent AMI families who desperately need this housing.

Thank you for your kind attention.

Respectfully,

A handwritten signature in black ink that reads "AnnaMaria Morgan". The script is fluid and cursive, with the first name and last name clearly distinguishable.

**AnnaMaria Morgan, President
Midland Area Real Estate Investors Association (MAREIA)
P O Box 2685, Midland, MI 48641
Personal Address: 807 Fournie Street, Midland, MI 48640**